

PLANNING COMMISSION

ACTION MINUTES

TUESDAY, SEPTEMBER 7, 2004

Chair Gibson called the meeting to order at 7:00 p.m. at the Twin Pines Senior and Community Center.

1.ROLL CALL:

Present, Commissioners: Gibson, Parsons, Frautschi, Dickenson, Long, Wozniak, Horton
Absent, Commissioners: None

Present, Staff:Community Development Director Ewing (CDD), Principal Planner de Melo, Zoning Technician Froelich (ZT), Deputy City Attorney Zafferano (DCA), Recording Secretary Szabo (RS)

2.AGENDA AMENDMENTS:None

3.COMMUNITY FORUM (Public Comments):None

4. CONSENT CALENDAR:

4A. Revised Landscape Plan / Resolution and Conditions of Approval for 550 Island Parkway
ZT Froelich summarized the staff report, recommending approval of the Resolution and attached Conditions, which had been revised as discussed at the August 17, 2004 Planning Commission meeting.

MOTION: By Commissioner Frautschi, seconded by Commissioner Horton, to adopt the revised Resolution approving the Conditional Use Permit, Design Review, and Landscape Plan for the addition of Cellular Equipment Cabinets and Replacement Antennae at 550 Island Parkway, with the attached Conditions of Approval.

Ayes: Frautschi, Horton, Dickenson, Long, Wozniak, Parsons, Gibson
Noes: None

Motion Passed 7/0

5.STUDY SESSION

5A.Fire Awareness Training

Jim Palisi, South County Fire Authority Fire Marshal, Denise Enea, Woodside Fire Protection District Fire Marshal, and Dr. Philippe Cohen, Director of the Stanford University Jasper Ridge Biological Preserve, made a special presentation with the goal of achieving a higher level of effective fire protection education and planning for the City of Belmont. They summarized the mission of the San Mateo County Fire Safe Committee, and discussed fire protection techniques that would greatly reduce the loss of lives and property from a wildland fire. They provided a Fire Hazard Evaluation Score Sheet, which they recommended be given to applicants planning to build a new house in Belmont, and stressed that decisions that are made now about plans and developments will have an enormous impact on the future. They emphasized the importance of requiring defensible space at the planning stage, and answered questions from the Commission regarding acceptable roof material, trees, cluster developments, vegetation, plan check objectives, etc.

CDD Ewing discussed the issue of a 30' buffer zone within the property, noting that it is a particular problem in hillsides in Belmont where the lots are quite small. He concurred that it is a problem the City will not escape, suggesting that they might want to take a bigger picture look at this issue.

6.PUBLIC HEARINGS:

6A. PUBLIC HEARING - 1160 Kedith Street

To consider a Duplex Design Review to construct a 532 square foot addition to the first floor of the existing duplex residence for a total of 2,484 square feet that is below the zoning district permitted 3,396 square feet for this site. (Appl. No. 04-0038)

APN: 040-343-100; Zoned: R-2 (Duplex Residential)
CEQA Status: Categorical Exemption per Section 15301, Class 1(e)(1)
Applicant/Owner: Pierre Antoun

ZT Froelich summarized the staff report, recommending approval with the attached conditions. He answered questions from the Commission as follows:

- * Setback is 15' at rear, 6' on side
- * Applicant performed the minimum requirement for notifying adjacent property owners.
- * 6'-wide opening will be a French double door.
- * The addition is over 70' and has a closet.
- * The only thing that doesn't make it a bedroom is the 4' doorway.

C Frautschi asked what definition was used to determine that the addition is not a bedroom, noting that in the definitions for the code, it says any room other than a bathroom, kitchen, or the principal living room in a residential structure which is suitable for or capable of being used for sleeping accommodations is a bedroom - the plans say bedroom. PP de Melo noted that the room meets two out of three of the parking upgrade requirements, which are over 70 sq.ft., a closet within the confines of the room, and a door that separates the room from adjacent space, thus defining per the parking code that it is not considered by definition a bedroom. CDD Ewing clarified that the parking ordinance narrows it down for the purposes of counting parking to a more specific definition, which controls in this case.

Chair Gibson opened public hearing. No one came forward to speak.

MOTION:By Commissioner Parsons, seconded by Commissioner Frautschi, to close the public hearing.
Motion passed.

C Frautschi commented as follows:

- 1) The hot water heaters on the outside of the house are a safety issue;
- 2) Parking is an issue since there is no room for a car in the garage;
- 3) The applicant is trying to skirt the parking issue by not calling it a bedroom;
- 4) Even though the tree in question is a non-protected tree, it should be replaced in some way if it has to be removed;
- 5) Repaving the cracked driveway needs to be a part of a landscape plan;
- 6) The owner's work/paint trucks cannot be parked on their driveway because of the hot water heaters and are consequently parked on the street.

C Horton asked if the hot water heater enclosures are legal. PP de Melo responded that, as part of the plan check for the project, staff would do a permit check to determine whether or not they were installed with permits and whether the building code would allow them to remain in their current configuration.

ZT Froelich confirmed that no landscape plan was submitted, other than the trees and driveway shown on the existing site plan.

CDD Ewing responded that parking on the street is not a violation in this particular case but that the garage has to be accessible from the street by vehicles to be counted as parking. If the water heater reduces the driveway to less than the minimum width, they could condition it to be removed. He agreed that the paving of the driveway is part of the landscape plan, and since they've identified a bedroom that cannot be a bedroom, the Commission has some latitude with regard to the width of the door opening or the closet, or something along those lines, to assure that it is not a bedroom under the code.

C Wozniak stated that she did not see a notice posted, and had concerns about the neighborhood outreach since there is no list of the people who were contacted. She stated that seeing a plan that says "bedroom" and then the applicant decides after the fact that it is not a bedroom, she could not approve the project because she believes intention is clearly that it will be a bedroom eventually. She asked that the applicant be encouraged to come before the Commission to make a statement.

Regarding the outreach program, CDD Ewing clarified that property owners within 300' of the project received a notice in writing, and since no one had appeared at the meeting, their conclusion is typically that the neighbors do not find anything particularly troublesome about this project.

C Long felt that a good reason to have the applicant come before the Commission would be so that they could get a little more elaboration on the outreach efforts.

VC Parson suggested that if the item is continued, they come back with a landscape plan, and consider forcing a redesign so there is no closet. He asked if an open garage door with a garage full of stuff is a code enforcement issue. CD Ewing replied that it is not since it is not a life/safety issue, but that hazardous materials might cross over.

Chair Gibson asked staff to urge the applicant to come and appear before the Commission.

MOTION:By Commissioner Long, seconded by Commissioner Dickenson, to continue the Duplex Design Review for 1160 Kedith Street to the first meeting in October for the reasons previously stated. (Appl. No. 2004-0038)

Ayes: Long, Dickenson, Horton, Frautschi, Wozniak, Parsons, Gibson
Noes: None

Motion Passed 7/0

6B. PUBLIC HEARING - 1100 El Camino Real

To consider a Conditional Use Permit to place removable produce carts in front of the existing Safeway grocery store. The proposal includes no increase in building floor area and no additional parking.

(Appl. No. 03-0121)

APN's: 045-183-100 & 045-183-070; Zoned: C-2 (General Commercial)

CEQA Status: Categorical Exemption per Section 15301

Applicant: Edward J. Gee & Associates

Safeway Stores, Inc.: Owners

PP de Melo summarized the staff report, and responded to questions that had been received from Commissioners subsequent to preparation of the staff report. Specifically, staff and the City Attorney came to the conclusion that if the landscaping is underperforming in conjunction with the original landscape plan, they can work with the landscape plan and the applicant to improve the landscaping. The issue can also be addressed again from a code enforcement perspective. Regarding signage, the applicant will be available to describe any sort of signage proposed but no signs were indicated as part of the current application. In terms of the vending machines on site, PP de Melo had searched the project conditions of approval and there is no description of whether vending machines were approved as part of the original approval in 1995. He would like to have the opportunity to look at the original project plans approved from 1994 to ascertain if vending machines were approved as part of that original CUP approval. If they were not approved outdoor use then they would have to be removed. If the applicant wants to seek approval to locate vending machines in the front of the store, they would need to apply for a CUP to do so because that is also an outdoor use. He concluded that staff believed the project as proposed for the outdoor display carts for produce and flowers meets the CUP findings and recommended approval in accordance with the attached Resolution and Conditions of Approval.

Discussion ensued regarding the fact that there are often many displays of merchandise in front of the store, with staff stating that this is not a permitted part of the approved project. He also confirmed that as part of the proposed project, the carts will be required to be wheeled out at 7 a.m. and back into the store at 11 p.m.

C Dickenson questioned the recent appearance of Safeway shopping carts that are littering the City and asked staff to work with the applicant to assure that they are returned to the site.

Edward Gee, Edward Gee & Associates, architectural planning firm, and Jack Fergot, design manager for Northern California Safeway, were available to answer questions.

C Wozniak asked why they applied for a permit for this and not for the outdoor merchandising that already exists. Mr. Gee responded that all grocery stores tend to bring things out in front of the store for special occasions but they wanted to make this a permanent display that they can bring out that would be authorized by the City. Safeway's new philosophy is to invite customers to really look at their fresh product, whether it be flowers, produce or meat. He assured the Commission that, since Safeway has recently spent a substantial amount of money renovating the store, they will be sure to display the carts appropriately when they bring them inside at night.

Responding to C Frautschi's concerns, Mr. Gee stated that:

- * Signs will indicate the price and be kept small, and if the vending machines in front of the store are not in compliance with any of the previous conditions of approval they will be removed.
- * The original proposal, which included an outdoor seating area, was scaled back because of concerns of nearby residents due to the rat problems in that area and the homeless across the street at the train station.
- * Repainting the front of the store was not cost effective at this time.
- * Safeway has hired a landscape firm that will maintain the parking lot landscaping once a week, replacing plants and pruning trees as needed. Mr. Frautschi pointed out that there are eleven trees that are dead or failing.
- * When the shelf on the carts are pulled out they will actually measure about 3 x 4-1/2'.
- * The carts should reduce the proliferation of seasonal merchandise in front of the store.

In response to C Long's questions, Mr. Gee stated that he is not an employee of Safeway but a contracting architect, but that Mr. Fergott is the Design Manager responsible for all the stores in Northern California. In light of some past issues with the Safeway store, C Long asked what assurances the City has that the carts would be brought in each night and at 11. Mr. Fergott described his background and responsibilities, and noted that since Safeway moves its managers around at a very rapid pace and, unfortunately, some of the knowledge does not always get transferred from one manager to the next. He stated that they have literally gone out and searched the Northern California Division to get the very best managers for the two Belmont stores because this is such a strong concept that we want to make sure it succeeds and has the full recognition and support of their customer base, and they want to make sure that things are done properly and to the letter of the conditions that are placed on the project. To that end, he committed to making sure that the store manager is aware of all of the conditions and knows that the carts need to be in at 11 p.m., and that the information gets transmitted from one manager to the next. Mr. Gee added that the issues raised at the last outreach meeting were communicated to the store manager immediately after the meeting.

Chair Gibson opened the public hearing. No one came forward to speak.

MOTION: By Commissioner Frautschi, seconded by Commissioner Dickenson, to close the public hearing. Motion passed.

C Long stated that he had no doubts about the sincerity of Mr. Gee and Mr. Fergott, and that it is their intention that this store operate well within Belmont's rules and regulations and the CUP. However, he added that he has lost a bit of confidence in their ability to uphold some very minimal conditions that the City has put forth and that are written into the CUP. He was in favor of the current application but had very little confidence that the few restrictions that they put in place will get executed based on historic performance.

VC Parsons was also in favor of the project, but wanted to make sure that, to avoid problems with rats, no produce is stored under the carts. He also had concerns about minimizing the signage and would like to have the landscape restored to the way it was approved in the first CUP, at a minimum. He further wanted to be sure that this CUP does not supersede the existing one; it is just an addendum.

C Horton stated that she would want to condition any approval of these carts that when they are taken in at 11 p.m. they get hosed down because she feels it will be a mess underneath them. She suggested the possibility that the store be required to apply for a permit and pay a fee for temporary displays. CDD Ewing thought that would be possible since, by their making this application, the applicant has put how they conduct outdoor sales in front of the store in the hands of the Commission. She suggested that prepackaged items should not be allowed so that they describe the character a little more carefully, and that this really is the fresh part of the store being displayed, not a place for a pallet of notebook paper. She added that their best tool is as clear a set of conditions that they can write that are specific and unambiguous three years from now when there's a new manager and a new staff.

C Frautschi stated that he was in favor of the project, but would not want to see three cans of corn for 69 cents or something like that, and felt they should include conditions about how the site is maintained as far as cleanliness is concerned. He felt that what they were asking for was not unreasonable, but that the disappointment lies with how Safeway has dealt with certain things in the past, whether its carts, maintaining the landscape or waiting months and months to fix a door. When one doesn't have the track record one doesn't want to take another risk.

C Long suggested that perhaps they have a stronger objective to achieve than just putting more stringent conditions in place, and that would be to either deny or continue. He believed the intentions are great but felt that perhaps it is time to rein in the scofflaw nature of the local management, just to perhaps get a message across that we want to see something that is more firm and more concrete about how this corporate neighbor is going to be able to better adhere to the conditions that have already been laid out. He did not think that it would be overreaching for the Commission to say that as soon as the applicant can prove to us that they have a plan going forward to meet the current conditions of use, then the Commission will be happy to add this additional condition of use.

Chair Gibson stated that he would support a condition that sales be restricted to live items that include plants, vegetables, pumpkins and Christmas trees.

C Horton questioned why they would grant additional things if they don't comply with the original conditions, and concurred with C. Long's statement.

C Dickenson asked if the perishable products would trigger a Health Department inspection. CDD Ewing responded that he was not sure, but that, if so, it would be the applicant's problem to deal with. C Dickenson felt that the Commission would be better served by calling out the original conditions of approval and having staff take note of them so they can move forward in the right direction.

CDD Ewing suggested that staff bring back a memorandum with options for the Commission to discuss, and at that time they can give staff direction on a Resolution. The items they will explore are signage, cleaning, review of the existing CUP conditions, types of merchandise to be displayed, restrictions on merchandise on the ground under the carts, and temporary seasonal displays.

C Long felt that the applicant would be well served to have these issues addressed at the next hearing, perhaps with local or division management present.

C Wozniak suggested that the applicant propose some kind of process or procedure that they will use when their management changes to impart this knowledge to their new management.

MOTION: By Vice Chair Parsons, seconded by Commissioner Long, to continue the Conditional Use Permit application for 1100 El Camino Real to a date uncertain, based on the items discussed (Appl. No. 03-0121).

Ayes: Parsons, Dickenson, Long, Horton, Wozniak, Frautschi, Gibson
Noes: None

Motion passed 7/0

Chair Parsons called for a recess at 9:03 p.m. Meeting resumed at 9:12 p.m.

6C. PUBLIC HEARING -

Zoning Map Change and Amendment to Zoning Ordinance Project Description:

1. Zoning Map Change. To rezone certain City-owned properties from HRO-3 (Hillside Residential and Open Space) to A (Agriculture) and,
2. Zoning Ordinance Amendment - A (Agriculture) District. To consider revisions to the list of permitted and conditionally permitted uses.

These projects, if approved as proposed, will reduce development potential on City-owned sites in the Western Hills Area.

(Appl. No. 04-0053)

CEQA Status: Categorical Exemption per Section 15308 - Actions of Regulatory Agencies for the Protection of the Environment

Applicant: City of Belmont

CDD Ewing summarized the staff report, noting that they had identified the General Plan goals and policies, looked at the Western Hills Plan, and concluded that the City's General Plan policies support the change, as presented in the draft resolution, to rezone the City-owned land in the HRO-3 District to Agriculture and make the changes to Sections 7.2 and 7.3 in the Belmont Zoning Ordinance.

C Wozniak initiated dialogue regarding interpretation of the meaning of sections 7.2 (d), 7.3 (b) and 7.3 (i) in the proposed Resolution. After discussion, it was agreed that deletion of the words "parochial and private" in section 7.2 (d) would clarify the intent of these items.

CDD Ewing responded to further questions from the Commission as follows:

- * The standards for HRO-3 and the Agriculture zone are different. There is no slope density in the Agriculture zone. The HRO is probably more restrictive in terms of minimum lot size, and on the steeper slopes there would be a larger minimum lot size for the Agriculture zone.
- * The land is covenanted for permanent open space, they brought this forward at the Council's suggestion to re-designate the property out of HRO-3 into Agriculture as an understanding that it is intended to be undeveloped, and that there is not a residential designation associated with it.
- * There is a general sense in urban areas that you have to allow some reasonable economic use, and his understanding from court-made laws is that in urban areas a single-family home is the minimum reasonable economic use that needs to be allowed in cities.
- * This proposal only says what the use regulations are for the land and there may be a separate covenant that came with the development of the Hidden Valley area that says that this is deeded to the City as permanent open space; that would be a much more powerful restriction on what the City actually does with the property than the zoning.
- * The 162 acres is an actual addition of all of the HRO-designated pieces of land owned by the City as of this date. Water Dog Lake is owned by NDNU with a long-term lease to the City and was not included in his calculations. It is already zoned Agriculture, and Hidden Valley was probably added to the designation since the Western Hills Plan was written.
- * The HRO designation will still exist and there is still some property further east toward Carlmont that is private ownership that will remain HRO-3.
- * Even though the general regulations say there are no horses or cattle, he believed goats used for brush clearing would not be precluded by the amendment
- * The term "limited public activities" at the bottom of page 3 of the staff report would refer to those that are listed as allowed by right, which would be schools, parks and libraries.
- * There is no limited lot size in the Agriculture zone because it is typically not subdivided - it is applied where the City Council felt it was appropriate.
- * He agreed to generate a list of all the Agriculture zones, per C Wozniak's request, noting that the "under an acre" applies only to the development of new homes under a subdivision, and therefore suggests that there are no other subdivisions anticipated in the zone to require establishment of a minimum lot size.
- * The McDougal Park/Charles Armstrong School site reflects a decision made by a previous Council where they applied PD and Agriculture to the entire site. The map should say PD/A, and there is nothing in the Zoning Ordinance to support the use of two districts in that way. It is the only parcel they have ever run across where the Council applied it in that sort of hybrid mixed fashion. He did not know if the Barrett site has been rezoned to reflect the change from a school to a community center.

Chair Gibson opened the Public Hearing.

Rich Bona, 506 Fairfax, San Mateo and owner of adjacent property at 2301 Carlmont, asked if the term "open space" means there is no possibility of the property being built on. CDD Ewing responded that a zoning document is a political document so one should never use the word "never," but by changing it to the Agriculture zone, there is a narrower set of uses that could be allowed. Mr. Bona noted that all the property owners along Carlmont received a notice from the Fire Authority to clean up the brush on their property, and felt that the fire hazard on the property being discussed is pretty high. He believed that all of the property owners adjacent to this property have complied with the SCFA notice, and asked that the City address the cleanup of the underbrush that is contiguous with the residential buildings. CDD Ewing agreed to look into the matter.

MOTION: By Commissioner Parsons, seconded by Commissioner Dickenson, to close the public hearing. Motion passed.

MOTION: By Commissioner Parsons, second by Commissioner Dickenson, approving resolution recommending to the City Council an amendment to the Zoning Map in the HRO-3 District and to Section 7, (Agriculture District), of the Belmont Zoning Ordinance, with a change to Permitted Uses, Item 7.2(d) to remove the words "parochial and private." (Appl. No. 2004-0053)

Ayes: Parsons, Dickenson, Long, Horton, Wozniak, Frautschi, Gibson
Noes: None

Motion Passed 7/0

Responding to C Wozniak's suggestion that the motion include a statement that an accurate map or list of the properties currently in the Agriculture zone, CDD Ewing agreed to attach either a map or list, whichever works out to be the clearest, to the report that goes to Council on this action, and will distribute a copy to the Commission.

7. OLD BUSINESS

7A. Revised Tree Removal/Landscape Plan for Belmont Library - 1110 Alameda de las Pulgas

Carlos summarized the staff report, recommending approval of the revised Tree Removal/Landscape Plan as proposed.

MOTION: By Commissioner Frautschi, seconded by Commissioner Dickenson, to approve a revised Tree Removal/Landscape Plan for the Belmont Library Construction Project at 1110 Alameda de las Pulgas with the change in the condition that tree # 40 be replaced with three 24" box trees if it has failed within 12 months or 24 months of project completion. (Appl. No. 03-0117)

Ayes: Frautschi, Dickenson, Long, Horton, Wozniak, Parsons, Gibson
Noes: None

Motion Passed 7/0

8. REPORTS, STUDIES, UPDATES AND COMMENTS

C Wozniak reported on a recent trip to the Disney-created town of Celebration, Florida, and could provide a copy of their community newsletter for anyone who was interested.

C Frautschi thanked staff for the permit list that they received, and asked if it could be printed alphabetically by street name. CDD Ewing responded that they could not reorganize the information as they have little control over the software; it would cost several thousand dollars to get it organized some other way. He added that the report includes roofing permits but not retaining walls, fences that are to code, since they do not require permits, encroachment permits, plumbing, and electrical permits.

9. PLANNING COMMISSION LIAISON TO CITY COUNCIL MEETING OF TUESDAY, September 14, 2004.

Liaison: Commissioner Frautschi
Alternate Liaison: Commissioner Horton

10. ADJOURNMENT:

The meeting adjourned at 9:55 p.m. to a regular meeting on Tuesday, September 21, 2004 at 7:00 p.m. at Twin Pines Senior and Community Center.

Craig A. Ewing, AICP
Planning Commission Secretary

Audiotapes of Planning Commission Meetings are available for review in the Community Development Department

Please call (650) 595-7416 to schedule an appointment.